

Intro. Res. No. 1471-2013
Introduced by Legislator Calarco

Laid on Table 6/4/13

**RESOLUTION NO. -2013, ADOPTING LOCAL LAW
NO. -2013, A LOCAL LAW TO STRENGTHEN THE
REGULATION OF PRECIOUS METAL AND GEM EXCHANGES**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on , 2013, a proposed local law entitled, "**A LOCAL LAW TO STRENGTHEN THE REGULATION OF PRECIOUS METAL AND GEM EXCHANGES**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2013, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO STRENGTHEN THE REGULATION OF
PRECIOUS METAL AND GEM EXCHANGES**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk enacted Local Law No. 18-2009 to extend to the secondary gem market recordkeeping and reporting requirements that were long applicable to transactions involving precious metals.

This Legislature also finds and determines that some precious metal and gem exchange businesses are not complying with recordkeeping and reporting requirements, electing to pay large fines instead.

This Legislature further finds and determines that in some instances, when a precious metal and gem exchange business has its license revoked by the Department of Labor, Licensing and Consumer Affairs, someone associated with the original licensee applies for a new license to ensure the continued operation of the business.

This Legislature finds that the Department of Labor, Licensing and Consumer Affairs should be empowered to deny the issuance of precious metal and gem exchange licenses at locations that have a history of unlawful activity.

Therefore, the purpose of this law is to empower the Department of Labor, Licensing and Consumer Affairs to deny a license application for the operation of a precious metal and gem exchange business at a particular location when an exchange operated at that same location and lost its license within the past two (2) years.

Section 2. Amendments.

Chapter 563 of the SUFFOLK COUNTY CODE is hereby amended as follows:

**CHAPTER 563.
LICENSED OCCUPATIONS**

* * * *

Article IV. Precious Metal and Gem Exchanges.

* * * *

§ 563-37. Licensed Required.

* * * *

- B. Every licensee shall maintain an establishment within the [State of New York] County of Suffolk.

* * * *

§ 563-38. Authority to withhold license.

- A. The Department, in its discretion, may refuse to issue a license to an applicant whose proposed business location was previously operated as a precious metal and gem exchange and the previous establishment's license to operate as same was revoked by the Department within the preceding two (2) years.
- B. In determining whether to issue a license during the aforementioned two (2) year period, the Department shall determine whether the proposed licensee is a business entity separate and distinct from the precious metal and gem exchange that had its license revoked, or has acquired the predecessor exchange business through an arm's length transaction. If a transaction is found not to be an arm's length transaction, the Department shall not issue such license.
- C. For the purposes of this section, "arm's length transaction" shall mean a sale or transfer of all interests in a precious metal and gem exchange business in the open market between an informed and willing buyer and seller, where neither is under any compulsion to participate in the transaction and is unaffected by any unusual conditions which indicate a reasonable possibility that the sale or transfer is being made for the purpose of permitting the original licensee to avoid the effect of the revocation of license. The following sales shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale, management agreement or other agreement giving the applicant control of the precious metal and gem exchange business, was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of the revocation of license:
1. a sale between relatives;
 2. a sale between related companies or partners in business; or
 3. a sale or other agreement giving the applicant control of the precious metal and gem exchange business, affected by other facts or circumstances that would

indicate that the transaction is entered into for the primary purpose of permitting the former operator to avoid the effect of the revocation.

§ 563-[38] 39. Fees.

* * * *

§ 563-[39] 40. Methods of purchase.

* * * *

§ 563-[40] 41. Required bond.

* * * *

§ 563-[41] 42. Required records.

* * * *

§ 563-[42] 43. Inspection of records.

* * * *

§ 563-[43] 44. Required records.

* * * *

§ 563-[44] 45. Prohibited acts.

* * * *

§ 563-[45] 46. Temporary license pending issuance of permanent license.

* * * *

§ 563-[46] 47. Exempted operations.

* * * *

§ 563-[47] 48. Required holding period.

* * * *

§ 563-[48] 49. Police order to hold property.

* * * *

Section 3. Applicability.

This law shall apply to the licensing of precious metal and gem exchanges businesses occurring on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language

___ Underlining denotes addition of new language

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: